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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,942	01/15/2004	Dale S. Jensen	3016.2.7	5055
7590 11/17/2005 Michael W. Starkweather 9035 S 1300 E, Suite 200 Sandy, UT 84094			EXAMINER BARNEY, SETH E	
			ART UNIT 3752	PAPER NUMBER

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/757,942	Applicant(s) JENSEN ET AL.	
	Examiner Seth Barney	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 1 and 3 is/are allowed.
 6) ☒ Claim(s) 4 and 8-16 is/are rejected.
 7) ☒ Claim(s) 6 and 7 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4, 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over 5,611,462 to Barkes in view of U.S. Patent No. 3,949,611 to Watt.

Regarding claim 4, Barkes discloses a fluid mixing block (132) comprising:

- at least a first and second inlet port (30,34) and an outlet port (38)
- at least a first and second inlet chamber (28,32) and a mixing chamber.
- a first backflow device (18) coupled between the first inlet chamber and the mixing chamber
- a second backflow device (18, see column 5, lines 24-37) coupled between the inlet chamber and the mixing chamber;
- a first fluid located in the first inlet chamber at a first pressure, and the first fluid located in the mixing chamber at a second pressure that is less than the first pressure.
- a second fluid located in the second inlet chamber at one pressure, and the second fluid located in the mixing chamber at another pressure that is less than the one pressure.

Barkes does not disclose at least three individual chamber plugs, which are removeably fastened to the mixing block to allow for manual inspection, cleaning, and

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adjustment of the first, second and mixing chambers. It is old and well known in the art to install chamber plugs to allow for visual inspection in any mixing or filling container as demonstrated by Watt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mixing block of Barkes with as many inspection plugs as desired in order to visually inspect the inside of the mixing block.

Regarding claims 8 and 12, Barkes discloses a housing, a mixing chamber, a first flow control device (18) coupled between the inlet port and the mixing chamber. Barkes does not disclose a first access port and a removable chamber plug. It is old and well known in the art to install chamber plugs to allow for visual inspection in any mixing or filling container as demonstrated by Watt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mixing block of Barkes with as many inspection plugs as desired in order to visually inspect the inside of the mixing block.

Regarding claim 9, the first control device comprises a backflow control device.

Regarding claim 10, the flow device is removable. See column 5, lines 24-37.

Regarding claim 11, it would have been obvious to one having ordinary skill in the art at the time the invention was made to orient and size the access ports as necessary to view or interact with desired parts.

Regarding claim 13, Barkes discloses all of the limitations of the claims except for the outlet port being orthogonal to the input ports. It would have been obvious to

one having ordinary skill in the art at the time the invention was made to modify the outlet port to face any direction necessary to achieve the desired output flow direction.

Regarding claim 14, the mixing block contains shafts (48,14) that may be used to mount to a surface.

Regarding claim 15, the flow control device is a backflow preventing device and a flow reduce reducing orifice.

Regarding claim 16, Barkes discloses a second control device coupled between the second inlet port and the mixing chamber. Barkes does not disclose a second access port. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mixing block of Barkes with as many inspection ports as desired in order to visually inspect the inside of the mixing block.

Allowable Subject Matter

3. Claims 1 and 3 are allowed.
4. Claims 6 and 7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments, see page 11, line 15, filed August 31, 2005, with respect to the filter in combination with the inlet port have been fully considered and are persuasive. The rejections of claims 1 and 6 have been withdrawn.

6. Applicant's arguments filed August 31, 2005, with respect to Watt being nonanalogous art have been fully considered but they are not persuasive.

7. In response to applicant's argument that Watt is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Watt is clearly pertinent to the particular problem. It is well known in the art to use inspection ports. Watt is a common example of such a use and even though Watt is not a mixing block, Watt teaches using an inspection port to view the inside of a container.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney
Examiner
Art Unit 3752

sb



David A. Scherbel
Supervisory Patent Examiner
Group 3700